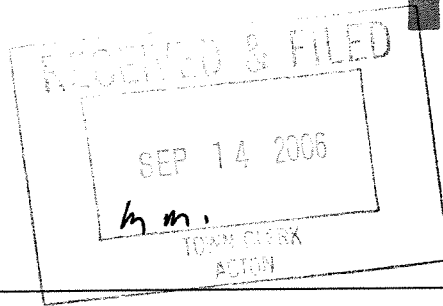




Planning Board

FYI

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DECISION

06-07

Fort Pond Place

Preliminary Subdivision (Residential Compound)

September 12, 2006

APPROVED with CONDITIONS

Decision of the Acton Planning Board (hereinafter the Board) on the application of Gustavus J. and Catherine M. Esselen of 1300 Keller Parkway, Apartment 617, Keller, TX 76248-1609 (hereinafter the Applicant) for their property located at 53 Fort Pond Road in Acton, Massachusetts. The property is shown on the Acton Town Atlas map C-3, as parcel 6-1 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Preliminary Subdivision Plan entitled "Preliminary Plan for Fort Pond Place a Residential Compound in Acton, Massachusetts", received by the Acton Planning Department on August 4, 2006, pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations (hereinafter the Rules).

The Applicant presented the subdivision proposal to the Board at an advertised public meeting of the Board on September 12, 2006. Mr. Richard Harrington of Stamski and McNary, Inc. represented the Applicant. Board members Gregory E. Niemyski (Chairman), Christopher R. Schaffner (Vice Chairman), Ruth M. Martin, Edmund R. Starzec, William F. King, and Bruce Reichlen were present at the meeting. The minutes of the meeting and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

- 1.1 A plan entitled "Preliminary Plan for Fort Pond Place a Residential Compound in Acton, Massachusetts", one sheet, dated August 3, 2006, by Stamski and McNary, Inc.
- 1.2 A plan entitled "Proof Plan in Acton, Massachusetts for: Esselen", dated 8/3/06, drawn by Stamski and McNary, Inc., consisting of one sheet.
- 1.3 Supplemental items and documentation required by the Rules consisting of:
 - An Application for Approval of a Preliminary Plan, form PP, dated 7/25/06.
 - Filing fee.
 - A completed Development Impact Report, form DIR.
- 1.4 Additional information submitted by the Applicant:

- 1.5 Interdepartmental communication received from:
- Acton Building Commissioner, dated 8/10/06;
 - Acton Engineering Administrator, dated 8/15/06;
 - Acton Fire Chief, dated 9/8/06;
 - Acton Health Director, dated 8/14/06;
 - Acton Planning Department, dated 9/8/06;
 - Acton Treasurer's Office, dated 8/15/06;
 - Acton Tree Warden & Municipal Properties Dir., dated 8/10/06;
 - Acton Water District, dated 8/14/06.

Exhibits 1.1 through 1.3 are referred to herein as the Plan.

2 FINDINGS and CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The Applicant proposes the 4-lot subdivision as a Residential Compound under Section 10 of the Rules. Section 10 of the Rules provides for broad waivers to "permit small-scale residential subdivisions in a manner that minimizes Town maintenance responsibility and cost, while simultaneously preserving the rural character of the Town". It refers to the common driveway standards of the Acton Zoning Bylaw (hereinafter the Bylaw) as a guideline for laying out and constructing residential compound subdivisions.
- 2.2 The application did not include a draft common driveway maintenance agreement and covenant as required under section 10 of the Rules.
- 2.3 The proposed subdivision is located within the Residence 8, Groundwater Protection - Zone 4, and Flood Plain Districts.
- 2.4 The Plan shows the division of approximately 9.3 acres into four residential lots. One lot has an existing house on it.
- 2.5 The existing and the proposed new single-family residences are allowed on the Site in accordance with the Bylaw, including all overlay district requirements.
- 2.6 The proposed lots comply with the area and frontage requirements of the Bylaw, including all overlay district requirements.
- 2.7 The Plan shows a +/- 320-foot long subdivision street, Fort Pond Place, that intersects with Fort Pond Road in Littleton. +/- 255 feet of the proposed street is located in Acton.
- 2.8 The Applicant has submitted a "proof plan" that shows a 4-lot subdivision with an existing house on lot 4. The standard street dimensions, lot areas, and frontages meet the minimum requirements of the Rules and Bylaw.
- 2.9 The Applicant has not requested any specific waivers from the Rules. However, the proposal as a Residential Compound contemplates waivers from sections 8 and 9 of the Rules. The Board, in its discretion, may grant waivers to any or all, or to none of the portions of these sections. As a general policy, the Board does not usually waive sidewalk requirements of the Rules (section 9.6), but it does allow, and in the case of Residential Compounds, it encourages sidewalks or monetary contributions towards constructing sidewalks in alternative locations more useful to the applicant and the general public.
- 2.10 Under Massachusetts Law, property taxes must be paid prior to definitive plan recording.

- 2.11 The Board has received comments from various Town departments, which are listed as Exhibit 1.5 above. The Board has considered these comments in its deliberations and made them available to the Applicant.

3 BOARD ACTION

Therefore, subject to and with the benefit of the following waivers, conditions, and plan modifications, the Board voted on September 12, 2006 to APPROVE the preliminary subdivision.

3.1 WAIVERS

Waivers from the Rules sections 8 and 9 in accordance with section 10, Optional Residential Compound Plan, seem appropriate to allow the street layout and design generally as depicted on the Plan.

3.2 CONDITIONS and PLAN MODIFICATIONS

Unless stated or implied otherwise, the conditions shall be fulfilled and the modifications to the Plan shall be made before filing the application for approval of a definitive plan.

- 3.2.1 Submit a proof plan drawn at the same scale as the proposed definitive plan that shows locations of proposed septic systems and dwellings.
- 3.2.2 Show the approximate locations of the dwellings, wells, and septic systems on all surrounding properties.
- 3.2.3 Show the property line between the DeGeorge and Gianetto/Duffy properties.
- 3.2.4 Show the flood plain district on the Plan.
- 3.2.5 Delineate the area on the Site that the Mass. Natural Heritage and Endangered Species Program has identified as "Estimated Habitat for Rare Wildlife".
- 3.2.6 Show the edge of pavement for both sides of Fort Pond Road on the Plan.
- 3.2.7 Label the proposed private way length consistently on the application form and in the Development Impact Report (DIR). Measure from Fort Pond Road side line to the T-intersection in the turnaround. Call out the street length in Acton separately.
- 3.2.8 On the Plan, label the sight distances at the proposed Fort Pond Road intersection.
- 3.2.9 Explore using the driveway intersections on the private way to serve as the turnarounds for emergency SU-30 vehicles, instead of a separate turnaround.
- 3.2.10 Wherever possible maintain existing trees and other vegetation as perimeter buffers around of the Site. Specifically, reconfigure the driveways for lots 1 and 2 and the house layout on lot 2 to preserve as a meaningful natural buffer to the Young property.
- 3.2.11 Consult with the Fire Chief regarding adequacy of the turnaround area(s) and general fire protection issues, and make Plan changes as necessary.
- 3.2.12 If acceptable to the Town of Littleton, assign and label the lots on the Plan with Fort Pond Road street addresses. In addition, show a street address sign for all lots and a "private way" sign at the intersection of the proposed private way and Fort Pond Road on the Plan.
- 3.2.13 Change the name for the proposed private way to one that is dissimilar to Fort Pond Road and any other nearby street in Acton or Littleton. Obtain approval for the new street name from the Police, Fire, and Engineering Departments.
- 3.2.14 Add a Plan note stating that the private way shall only serve the lots shown on the Plan.

- 3.2.15 Submit a draft common driveway maintenance agreement and covenant for the private way and all its appurtenances as required under section 10 of the Rules, including an operation and maintenance plan for the proposed drainage system.
- 3.2.16 Show adequate monumentation of the lots and private way as recommended in the Engineering Department comment memo.
- 3.2.17 Since the drainage areas are proposed to be above ground, explore options for relocating them further away from the proposed dwellings. Proposed drainage areas within 100 feet of wetlands will also have to be reviewed by the Acton Conservation Commission.
- 3.2.18 Show access and drainage easements around all proposed drainage areas on the Plan.
- 3.2.19 Submit copies of soil logs and percolation tests for all proposed drainage basins.
- 3.2.20 Add a note to the Plan stating to clean, repair and/or replace the existing 8-inch drain pipe under the existing driveway as necessary.
- 3.2.21 Contact the Littleton Planning Board and make all best efforts to obtain their approval for a pavement width of not more than 16 feet, plus roundings, for the proposed street where it intersects with Fort Pond Road in Littleton and for its length in Littleton.
- 3.2.22 With respect to the proposed roadway and its drainage system and structures, explore and evaluate Low Impact Development alternatives that may be suitable on this Site.
- 3.2.23 In lieu of building a sidewalk in the proposed private way, the Applicant may make a \$3,825.00 contribution to the Town sidewalk fund. This cost equals the approximate cost of constructing a sidewalk along the Acton portion of the Site's proposed private way (255 feet) at the Board's construction cost equivalent value estimate for new sidewalks of \$15.00 per foot of sidewalk.
- 3.2.24 Unless directed otherwise by this decision, the definitive plan shall comply with all requirements of the Rules, and shall address all departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.
- 3.2.25 All property taxes and other municipal charges must be paid prior to the application for approval of the definitive plan.



Roland Bartl, AICP, Town Planner
for the Acton Planning Board

Copies to:

Applicant - certified mail #
Engineering Administrator
Conservation Administrator
Town Assessor

Building Commissioner
Municipal Properties Director
Town Manager
Police Chief

Board of Health
Town Clerk
Fire Chief

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